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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/384,650	08/27/1999	JAMES A. MICHAEL	D-1079-DIV	8099

28995 7590 08/01/2002

RALPH E. JOCKE
231 SOUTH BROADWAY
MEDINA, OH 44256

EXAMINER

BUTLER, MICHAEL E

ART UNIT PAPER NUMBER

3653

DATE MAILED: 08/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 3653

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action, and apply to this and any subsequent Office Actions.

References

2. Applicant pointed out on page 15 in the Appeal Brief the omission of the Gardner '294 reference from the form '892 on the 12/4/00 final rejection of paper number 10.

3. MPEP § 707.05(g) proscribes corrective procedures if a reference is incorrectly cited:

“Where an error in citation of a reference is brought to the attention of the Office by applicant, a letter correcting the error, together with a correct copy of the reference, is sent to applicant. See MPEP § 710.06.... the examiner is directed to correct the error, in ink, in the paper in which the error appears, and place his or her initials on the margin of such paper, together with a notation of the paper number of the action in which the citation has been correctly given. See MPEP § 710.06.”

If an applicant calls the omission or error the attention of the Office within 1 month of the mailing, MPEP § 710.06 proscribes a reset on the response period accompanying the correction.

However, when the error is pointed out after the response period, MPEP § 710.06 proscribes:

“If the error in citation or other defective Office action is called to the attention of the Office after the expiration of the period for reply, the period will not be restarted and any appropriate extension fee will be required to render a reply timely. The Office letter correcting the error will note that the time period for reply remains as set forth in the previous Office action.”

The response period from the final rejection began 12/4/00 expiring 3/5/01. Applicant notified the office in his 4/24/01 response. Accordingly, no restart on the response period is permitted.

Art Unit: 3653

A copy of the in ink corrections on the form '892 of paper 10 is included along with the omitted Gardner 5,445,294 reference in this letter.

Conclusion


4. The time period for reply remains as set forth in the previous Office action.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (703) 308-8344.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh, can be reached on (703) 306-4173. The fax number for the Group is (703) 305-7687.

Michael E. Butler

Michael E. Butler

Examiner


DONALD P. WALSH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600